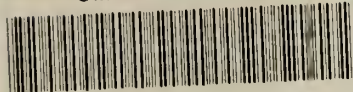


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Division of Local Services

**EVERYTHING YOU ALWAYS WANTED TO
KNOW ABOUT LEVY LIMITS...
BUT WERE AFRAID TO ASK**

A PRIMER ON PROPOSITION 2 1/2

OCTOBER 1987

Preliminary Version

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COMMISSIONER

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DEPUTY COMMISSIONER

882/168

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PREFACE

The Division of Local Services has developed this primer to guide local officials through the mechanics of Proposition 2 1/2. Proposition 2 1/2 revolutionized property tax administration and is a fundamental feature of the municipal fiscal landscape, yet there is still confusion about its meaning for cities and towns, particularly because the law is complex and has undergone a number of changes since it was enacted in 1980.

The purpose of this primer is to explain, as simply as possible, the basic provisions of Proposition 2 1/2. We focus in particular on those aspects of the law that we have found to cause the most confusion, for example: the ways in which Proposition 2 1/2 limits the property tax, how an override differs from a debt exclusion or a capital outlay expenditure exclusion, and how new growth works.

With the help of this primer, a local official should be able to understand the fundamentals of Proposition 2 1/2. However, this primer is not intended as a substitute for legal guidance on a community's options and obligations under the law. If you have any questions, please refer to the Appendix included in this primer and contact the Division of Local Services for additional assistance and information. The Appendix provides a list of Division of Local Services resources that address these issues, with instructions for obtaining copies, as well as a list of contact people within the Division who can assist you with any questions you may have.

We hope that this primer will help you to grasp the basic concepts of Proposition 2 1/2 and to act on behalf of your community with a better understanding of the law. We welcome your questions and comments on this publication.



1. WHAT IS A LEVY?

The **property tax levy** is the revenue a community can raise through real and personal property taxes. We will simply refer to the property tax levy as the **levy**. In Massachusetts, municipal revenues to support local spending for schools, public safety, and other public services are raised through the property tax levy, state aid, local receipts and other sources. The property tax levy is the largest source of revenue for most cities and towns.

2. WHAT IS A LEVY CEILING? WHAT IS A LEVY LIMIT?

Proposition 2 1/2 places constraints on the amount of the levy raised by a city or town and on how much the levy can be increased from year to year by a city or town.

A levy limit is a restriction on the amount of property taxes a community can levy. Proposition 2 1/2 established two types of levy limit:

First, a community cannot levy more than 2.5% of the total full and fair cash value of all taxable real and personal property in the community. To avoid confusion, in this report we will refer to the full and fair cash value limit as the **levy ceiling**.

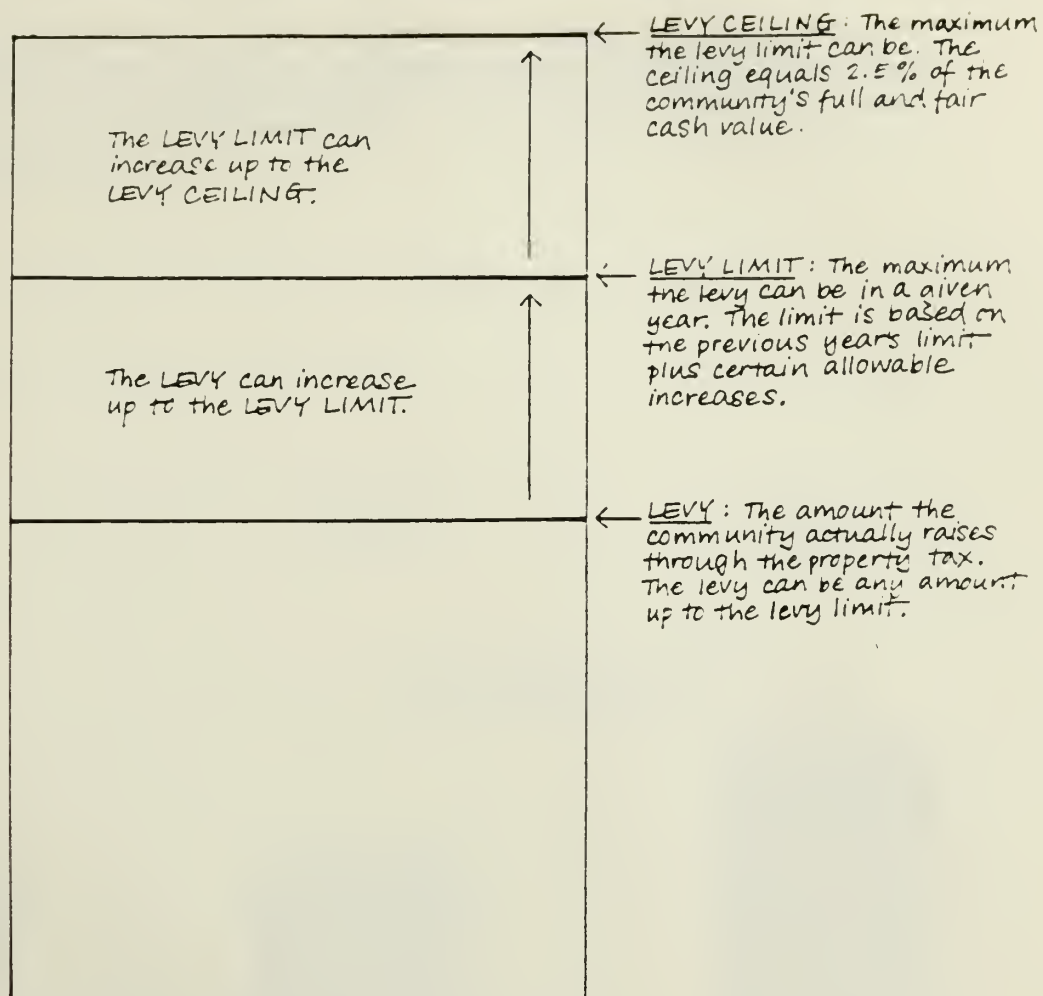
Second, a community's levy is also constrained in that it can only grow by a certain amount from year to year. We will refer to the maximum amount a community can levy in a given year as the **levy limit**. The **levy limit** will always be below, or at most, equal to the **levy ceiling**. The **levy limit** may not exceed the **levy ceiling**.

Proposition 2 1/2 does provide communities with some flexibility, however, in that it is possible, with voter approval, for a community to levy above its **levy limit** or its **levy ceiling** on a temporary basis, as well as to increase its **levy limit** on a permanent basis. This is discussed in more detail in other sections of this report.

The concepts of **levy ceiling** and **levy limit** are illustrated in *figure 1*.



figure 1



3. HOW IS A LEVY CEILING CALCULATED?

The levy ceiling is determined by calculating 2.5% of full and fair cash value of real and personal property:

$$\text{FULL AND FAIR CASH VALUE} \times 2.5\% = \text{LEVY CEILING}$$

$$\text{FULL AND FAIR CASH VALUE} = \$100,000,000$$

$$\$100,000,000 \times 2.5\% = \$2,500,000$$

In this example, the levy ceiling is \$2,500,000.



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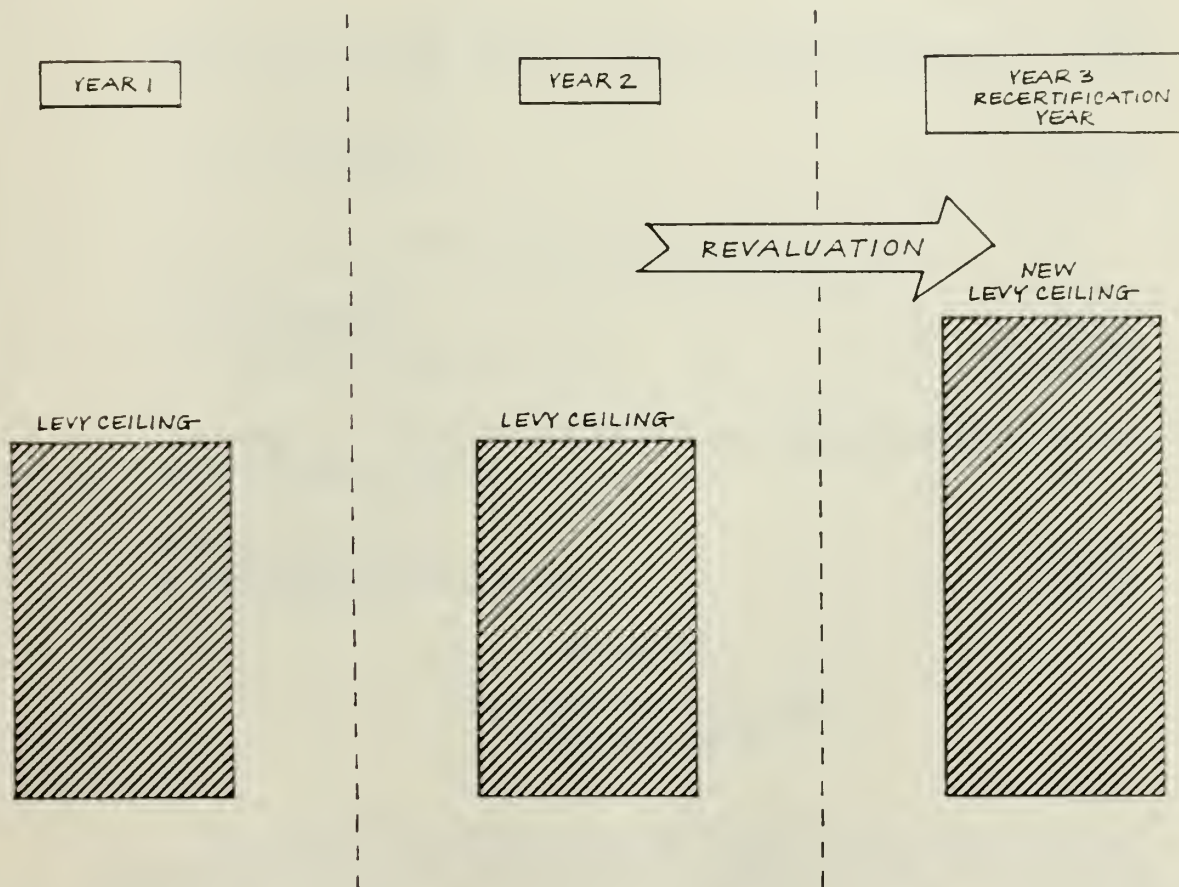
<https://archive.org/details/everythingyoualw00mass>

4. HOW IS A LEVY CEILING INCREASED?

When a community revalues its property, as it is required by law to do every three years, the total full and fair cash value increases. This raises the levy ceiling. With the rapid appreciation of property in Massachusetts in recent years, levy ceilings, in general, have risen substantially.

See figure 2.

figure 2



5. HOW IS A LEVY LIMIT CALCULATED?

Since 1981, when Proposition 2 1/2 went into effect, a levy limit for each community has been calculated annually by the Department of Revenue. It is important to note that a community's levy limit is based on the previous year's **levy limit** and *not* the previous year's actual levy. A levy limit is calculated in the example below. Each step in this example is explained in more detail in other sections of this report.

Taking the previous year's levy limit and increasing it by 2.5%:

A. FY86 LEVY LIMIT		\$ 1,000,000
B. (A) x 2.5%	+	<u>\$ 25,000</u>

Adding to the levy limit amounts of certified new growth added to the community's property tax base:

C. FY87 NEW GROWTH	+	<u>\$ 15,000</u>
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Adding to the levy limit amounts authorized by override votes

D. FY87 OVERRIDE	+	<u>\$ 100,000</u>
E. FY87 SUBTOTAL (A + B + C + D)	=	<u>\$ 1,140,000</u>

Comparing the FY87 levy limit to the FY87 levy ceiling and applying the lesser number (compare E and F):

F. FY87 LEVY CEILING		\$ 2,500,000
G. APPLICABLE FY87 LEVY LIMIT		<u>\$ 1,140,000</u>

\$1,140,000

APPLICABLE FY87 LEVY LIMIT
(Lesser of E and F)

This community's levy limit, the maximum amount in real and personal property taxes it can levy, is \$1,140,000 for FY87. How much of this amount the community actually wants to use — that is, the amount of the levy — is up to the discretion of local officials. *The community can levy up to or at any level below the entire levy limit amount, regardless of what its levy was in the previous year. Levy increases are discussed in Section 11.*

6. HOW IS A LEVY LIMIT INCREASED?

The levy limit is increased from year to year as long as it remains below the levy ceiling. These are the ways which result in permanent increases in the levy limit:

Automatic 2.5% Increase. Each year, a community's levy limit automatically increases by 2.5% over the previous year's levy limit. This does not require any action on the part of local officials; the Department of Revenue calculates this increase automatically.

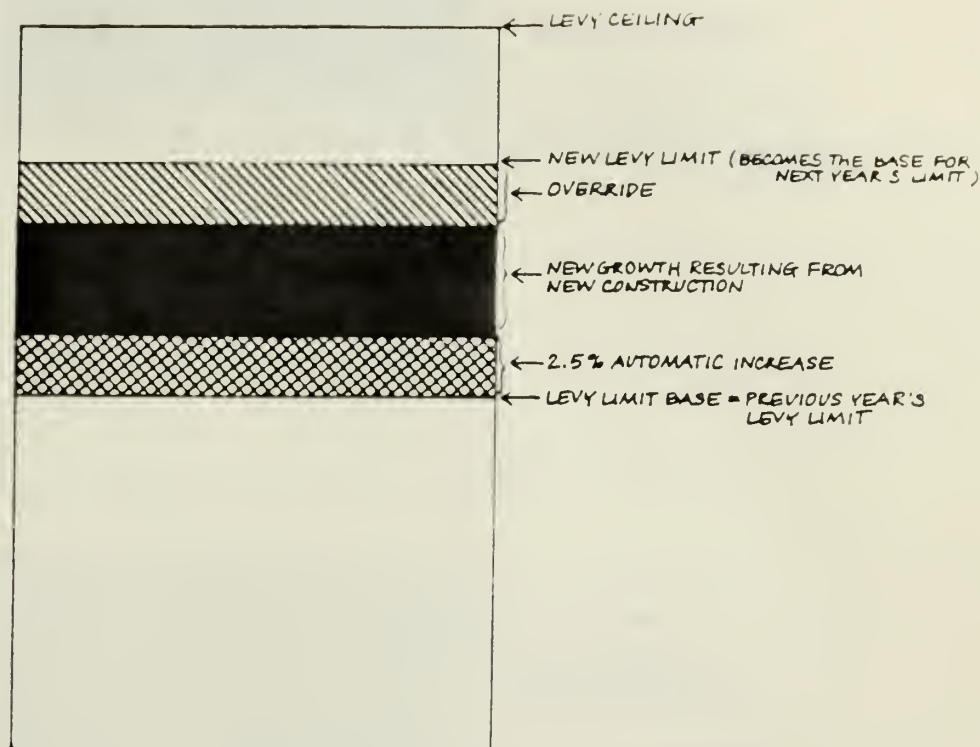
Growth Resulting from New Construction. A community is able to increase its levy limit each year to reflect growth in the tax base resulting from certain new construction and parcel subdivisions. Assessors are required to submit information on growth in the tax base, for approval by the Department of Revenue, as part of the tax rate setting process. New Growth is discussed in *Section 8*.

Overrides. A community can permanently increase its levy limit by successfully voting an override. The amount of the override becomes a permanent part of the levy limit base. Overrides are discussed in *Section 9*.

Please note that debt exclusions, capital outlay expenditure exclusions and overrides are all often referred to as "overrides," as all require voter approval and enable a community to either permanently increase its levy limit or temporarily levy above its levy limit or levy ceiling. This primer makes a distinction between an override and a debt or capital outlay expenditure exclusion because there is a significant difference in the impact of each on a community's levy limit. An override enables a community to *permanently* increase its levy limit, while an exclusion only allows for a *temporary* increase in taxes over a community's levy limit or levy ceiling. Overrides, debt exclusions, and capital outlay expenditure exclusions are discussed in greater detail in other sections of this primer.

In summary, the levy limit can increase from year to year in these ways: automatic 2.5% increase, new growth, and overrides. Once the levy limit is increased through any of these ways, the increased levy limit amount becomes the base upon which levy limits are calculated for future years. See *figure 3*.

figure 3



7. HOW CAN A COMMUNITY LEVY TAXES IN EXCESS OF ITS LEVY LIMIT OR ITS LEVY CEILING?

A community can only levy taxes in excess of its levy limit or its levy ceiling through the following:

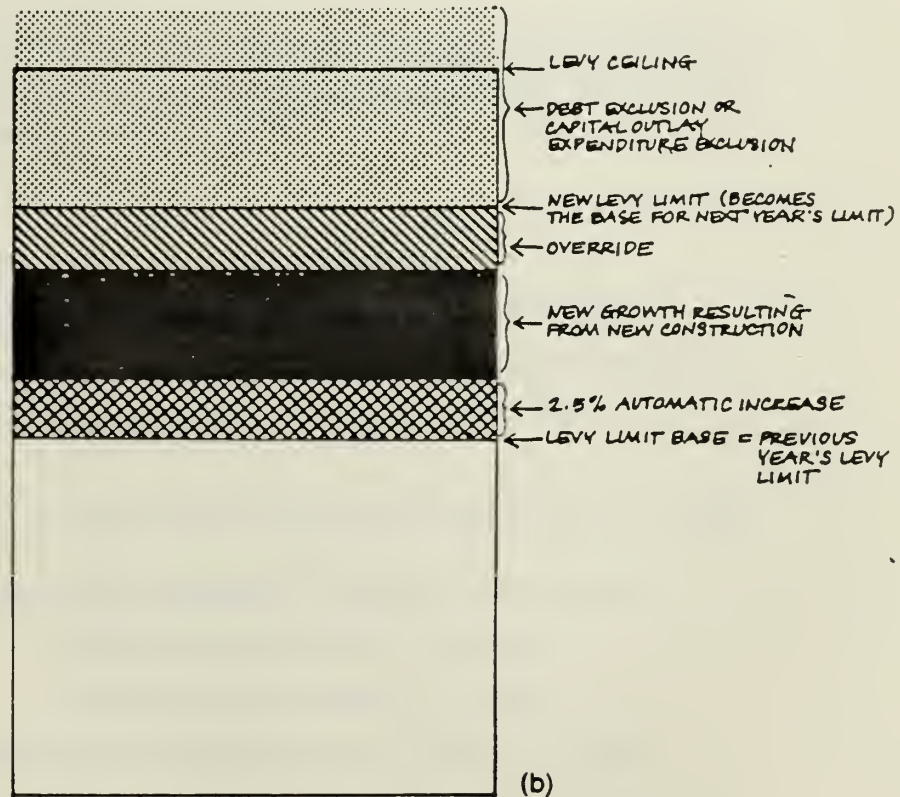
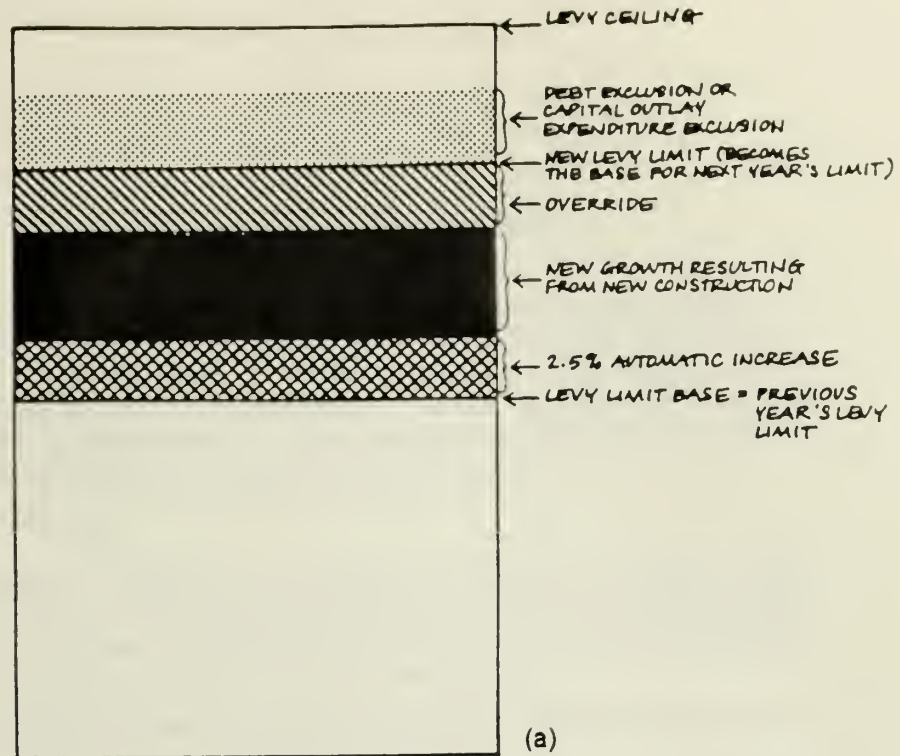
Debt Exclusions and Capital Outlay Expenditure Exclusions. A community can assess taxes in excess of its levy limit or levy ceiling by successfully voting a debt exclusion or capital outlay expenditure exclusion. The amount of the exclusion does not become a permanent part of the levy limit base, but allows a community to assess taxes for a certain period of time in excess of its levy limit or levy ceiling for the payment of certain debt service costs or for the payment of certain capital outlay expenditures.

See figure 4.

For more information on Debt Exclusions and Capital Outlay Expenditure Exclusions see Section 10.



Figure 4



In (a) the debt exclusion or capital outlay expenditure exclusion gives the community temporary additional taxing capacity over and above its levy limit, but below its levy ceiling.

In (b) the debt exclusion or capital outlay expenditure exclusion gives the community temporary additional taxing capacity that is over and above not only its levy limit, but also its levy ceiling.



8. WHAT IS NEW GROWTH?

Proposition 2 1/2 allows a community annually to increase its levy limit by an amount based upon the valuation of certain new construction and other growth in the tax base that is *not* the result of property revaluation. The purpose of this provision is to recognize that new development results in additional municipal costs; for instance, the construction of a new housing development may result in increased school enrollment, public safety costs, and so on.

This provision covers:

- new construction, additions, and alterations that result in increases in assessed valuation of not less than 50% for Residential and Open Space property and increases in assessed valuation of not less than \$100,000 or 50% for Commercial, Industrial, and Personal property
- exempt property returned to the tax roll and net increases in valuation for subdivision parcels and condominium conversions.

New growth is calculated by multiplying the increases in the assessed valuation of newly constructed or altered property, exempt property returned to the tax roll, and subdivision parcels and condominium conversions by the prior year's tax rate for the appropriate class of property.

Below we highlight how new growth is calculated:

$$\begin{aligned} & \text{INCREASES IN QUALIFYING ASSESSED VALUATION} \\ & \times \text{PRIOR YEAR'S TAX RATE FOR PARTICULAR CLASS OF PROPERTY} \\ & = \text{NEW GROWTH ADDITION TO LEVY LIMIT} \end{aligned}$$

For example, for a community that applies the same tax rate to all classes of property:

$$\begin{aligned} \text{INCREASES IN ASSESSED VALUATION} &= \$1,000,000 \\ \text{PRIOR YEAR'S TAX RATE} &= \$15.00 \\ \$1,000,000 \times (\$15.00/1000) &= \$15,000 \\ \text{NEW GROWTH ADDITION TO LEVY LIMIT} &= \$15,000 \end{aligned}$$

Below we highlight where the addition of new growth occurs in the calculation of the levy limit

Taking the previous year's levy limit and increasing it by 2.5%

A. FY86 LEVY LIMIT		\$ 1,000,000
B. (A) x 2.5%	+	<u>\$ 25,000</u>

Adding to the levy limit amounts of certified new growth added to the community's property tax base

C. FY87 NEW GROWTH	+	<u>\$ 15,000</u>
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Adding to the levy limit amounts authorized by override votes:

D. FY87 OVERRIDE	+	<u>\$ 100,000</u>
E. FY87 SUBTOTAL (A + B + C + D)	=	<u>\$ 1,140,000</u>

Comparing the FY87 levy limit to the FY87 levy ceiling and applying the lesser number (compare E and F):

F. FY87 LEVY CEILING	\$ 2,500,000
G. APPLICABLE FY87 LEVY LIMIT	<u>\$ 1,140,000</u>

\$1,140,000

APPLICABLE FY87 LEVY LIMIT
(Lesser of E and F)

New growth becomes part of the levy limit base, and thus increases at the rate of 2.5% each year as the levy limit increases. Reporting of new growth provides a community with an opportunity to increase its levy limit, which can provide for added budget flexibility in the future. Beginning with FY88, Boards of Assessors are required to report new growth as a part of setting the tax rate.

9. WHAT IS AN OVERRIDE?

Proposition 2 1/2 allows a community to assess taxes in excess of the automatic annual 2.5% increase and any increase due to new growth by passing an **override**. A community may take this action as long as it is below its levy ceiling, or 2.5% of full and fair cash value. An override *cannot* increase a community's levy limit above the level of the community's levy ceiling.

When an override is passed, the levy limit is calculated by adding the amount of the override to the previous year's levy limit. The override results in a *permanent* increase in the levy limit of a community, which as part of the levy limit base increases along with the base at the rate of 2.5% each year.

A majority vote of a community's Selectmen, or Town or City Council, with the Mayor's approval if required by law, allows an override question to be placed on the ballot. Override questions must be presented in dollar terms and must specify the purpose of the override. Overrides require a majority vote of approval.

Originally, Proposition 2 1/2 provided for two different types of overrides, which required either a majority or a two thirds vote of approval, based on the dollar amount of the override. In July 1987, the Legislature amended this provision to require a majority vote of approval for *all* overrides. The amendment also changed the vote required by the local appropriating authority from a two-thirds to a majority vote. In addition, the amendment requires that an override ballot question state the purpose of the override.



Below we highlight where the amount of an override is added in the calculation of the levy limit:

Taking the previous year's levy limit and increasing it by 2.5%:

A. FY86 LEVY LIMIT		\$ 1,000,000
B. (A) x 2.5%	+	<u>\$ 25,000</u>

Adding to the levy limit amounts of certified new growth added to the community's property tax base:

C. FY87 NEW GROWTH	+	<u>\$ 15,000</u>
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Adding to the levy limit amounts authorized by override votes

D. FY87 OVERRIDE	+	\$ 100,000
E. FY87 SUBTOTAL (A + B + C + D)	=	<u>\$ 1,140,000</u>

Comparing the FY87 levy limit to the FY87 levy ceiling and applying the lesser number (compare E and F):

F. FY87 LEVY CEILING	\$ 2,500,000
G. APPLICABLE FY87 LEVY LIMIT	<u>\$ 1,140,000</u>

\$1,140,000

**APPLICABLE FY87 LEVY LIMIT
(Lesser of E and F)**

This community can levy up to its levy limit of \$1,140,000 in FY87.



10. WHAT IS A DEBT EXCLUSION? WHAT IS A CAPITAL OUTLAY EXPENDITURE EXCLUSION?

Proposition 2 1/2 allows communities to raise funds for certain purposes above the amount of their levy limits or levy ceilings. Subject to voter approval, a community can assess taxes in excess of its levy limit or levy ceiling for the payment of certain capital projects and for the payment of specified debt service costs. An exclusion for the purpose of raising funds for debt service costs is referred to as a **debt exclusion** and an exclusion for the purpose of raising funds for capital project costs is referred to as a **capital outlay expenditure exclusion**.

The additional amount for the payment of debt service is added to the levy limit or levy ceiling *for the life of the debt only*. The additional amount for the payment of the capital project cost is added to the levy limit or levy ceiling *only for the year in which the project is being undertaken*. Unlike overrides, exclusions *do not* become part of the base upon which the levy limit is calculated for future years.

A capital outlay expenditure exclusion or debt exclusion is effective even in the rare case that the exclusion would bring the community's levy above its levy ceiling.

Both of these exclusions require a two-thirds vote of the community's Selectmen, or Town or City Council, with the Mayor's approval if required by law, in order to be presented to the voters. A majority vote of approval is required for both types of exclusion.

A single question may be presented to exclude *all* debt incurred prior to the enactment of Proposition 2 1/2. A separate question must be presented to exclude the total amount of each Post-Proposition 2 1/2 debt obligation, and must state the purpose or purposes for which the monies from the local issue will be used. A separate question must be presented for each capital outlay expenditure to be excluded and must state the purpose for which the monies from the assessment will be used.

Below we highlight how exclusions are added to the levy limit.

Taking the previous year's levy limit and increasing it by 2.5%:

A. FY86 LEVY LIMIT		\$ 1,000,000
B. (A) x 2.5%	+	<u>\$ 25,000</u>

Adding to the levy limit amounts of certified new growth added to the community's property tax base:

C. FY87 NEW GROWTH	+	<u>\$ 15,000</u>
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Adding to the levy limit amounts authorized by override votes:

D. FY87 OVERRIDE	+	\$ 100,000
E. FY87 SUBTOTAL (A + B + C + D)	=	<u>\$ 1,140,000</u>

Comparing the FY87 levy limit to the FY87 levy ceiling and applying the lesser number (compare E and F):

F. FY87 LEVY CEILING	\$ 2,500,000
G. APPLICABLE FY87 LEVY LIMIT	<u>\$ 1,140,000</u>

\$1,140,000

APPLICABLE FY87 LEVY LIMIT
(Lesser of E and F)

Calculating FY87 levy limit with debt exclusion or capital outlay expenditure exclusion:

G. APPLICABLE FY87 LEVY LIMIT	<u>\$ 1,140,000</u>
H. ADD FY87 DEBT EXCLUSION OR CAPITAL OUTLAY EXPENDITURE EXCLUSION	+ <u>\$ 50,000</u>

\$1,190,000

APPLICABLE FY87 LEVY LIMIT
WITH DEBT EXCLUSION OR CAPITAL OUTLAY
EXPENDITURE EXCLUSION

In FY87, this community can levy up to \$1,190,000, its applicable levy limit with this debt exclusion or capital outlay expenditure exclusion.

11. LEVY INCREASES

Once a community's levy limit is established for a particular year, the community can determine what its levy will be. The community may set its levy at any amount up to the levy limit. (Or, if it has voted a debt exclusion or capital outlay expenditure exclusion, it may levy up to the levy limit *plus* the additional temporary capacity resulting from the exclusion.)

It is important to note that as long as a community levies no more than its levy limit, there is no restriction on the dollar increase or percentage increase in its levy from year to year. Proposition 2 1/2 restricts increases in the *levy limit*, not the *levy*. A community is permitted to tax up to its levy limit, even if, to do so, it must raise its levy by a large percentage over the previous year's levy.

For example, a community could decide to increase its levy between FY86 and FY87 because the people of the community decide that the town should respond to some unmet local needs. Below are highlighted this community's FY86 and FY87 levy limits and levies:

FY86 LEVY LIMIT = \$1,000,000

FY86 LEVY = \$900,000

FY87 LEVY LIMIT = \$1,025,000

FY87 LEVY = \$1,025,000

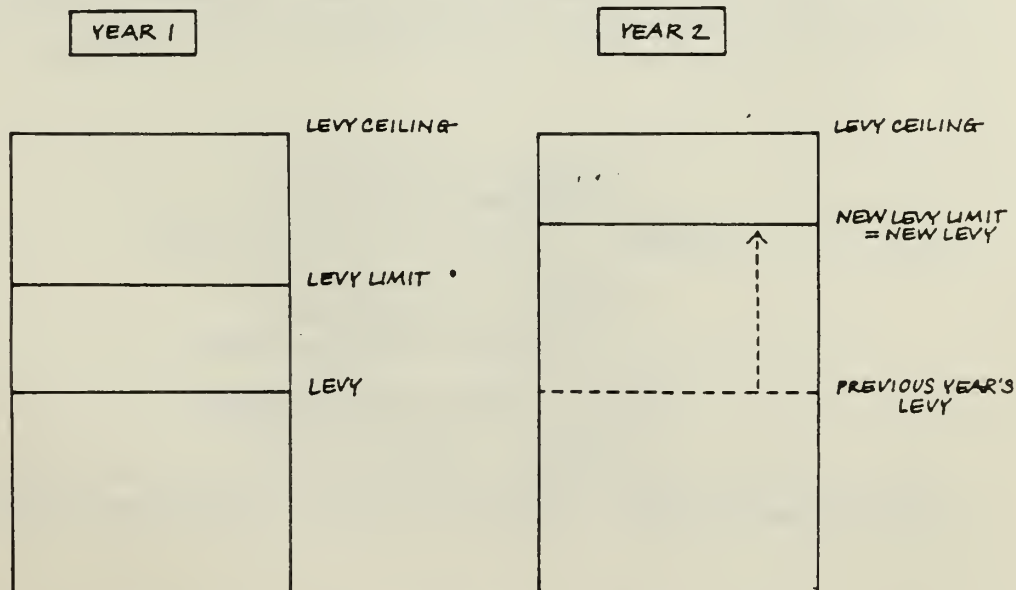
PERCENTAGE CHANGE IN LEVY LIMIT = 2.5%

PERCENTAGE CHANGE IN LEVY = 13.8%

From FY86 to FY87, the community's levy limit only increases by the allowed 2.5%. The community's levy increases from the FY86 amount of \$900,000 up to its FY87 levy limit of \$1,025,000. This is a total dollar increase in the actual levy of \$125,000 — and a percentage increase in the actual levy of 13.8%. From FY86 to FY87, the actual levy increases by 13.8% while the levy limit only increases by the allowed 2.5%.

It is important to note that the 13.8% increase described here is allowable under the provisions of Proposition 2 1/2. As long as the *levy limit* only increases each year by the amount allowed under Proposition 2 1/2, the actual levy can increase or decrease within the levy limit established each year, as decided by the community. The community may increase its levy up to its new levy limit regardless of the percentage increase in the levy. This concept is illustrated in figure 5.

figure 5



In Year 1, the community levies well below its levy limit.

In Year 2, the community's levy limit increases by the amount permitted under Proposition 2 1/2. The community decides to levy all the way up to its new levy limit. The increase in the levy in Year 2 over Year 1 is indicated by the arrow. This increase is permissible under Proposition 2 1/2.

12. EXCESS LEVY CAPACITY

As discussed in the previous section, a community may choose to set its levy at any amount below or equal to its levy limit. When a community sets its levy below the limit, the difference between the levy and the levy limit is commonly referred to as **excess levy capacity**. This is an additional amount the community could, but chose not to, levy.

LEVY LIMIT - LEVY = EXCESS LEVY CAPACITY

The concept of excess levy capacity is not a part of the Proposition 2 1/2 law, the way the levy limit and levy ceiling are. However, excess levy capacity has become an important factor in municipal finance, and local officials should understand this concept.

There are two common misconceptions about excess levy capacity. The first misconception is that if a community has excess levy capacity in one year, then its ability to levy up to its levy limit in succeeding years is negatively affected. This misconception is based on the fact that Proposition 2 1/2 limits the amount a community can increase its property taxes from year to year. Many think that this means that a community cannot raise its levy all the way up to the levy limit to use all its excess capacity in just one year.

This is not true. As we have already seen, Proposition 2 1/2 limits increases from year to year in the *levy limit*, not the *levy*. The full amount of the levy limit is always available to the community, REGARDLESS of how much of the limit the community has chosen to levy in previous years. It is within the law of Proposition 2 1/2 for a community to have excess levy capacity in one year and in the following year, levy right up to the full amount of its new levy limit. *This is true no matter what the percentage increase in the levy would be in order to achieve this result.*

The second misconception about excess levy capacity is that a community is able to go back and "capture" excess levy capacity from a previous year. This is also not true. Once the community sets its tax rate for a given year, any revenues foregone because of excess levy capacity are lost forever. *This is only a one-time loss, however.* In the following year, the community may levy up to its new levy limit, regardless of its levy in the previous year. See the example below:

FY86 LEVY LIMIT = \$1,000,000

FY86 LEVY = \$900,000

FY86 EXCESS LEVY CAPACITY = \$100,000

FY87 LEVY LIMIT = \$1,025,000

FY87 LEVY = \$1,025,000

FY87 EXCESS LEVY CAPACITY = \$ 0

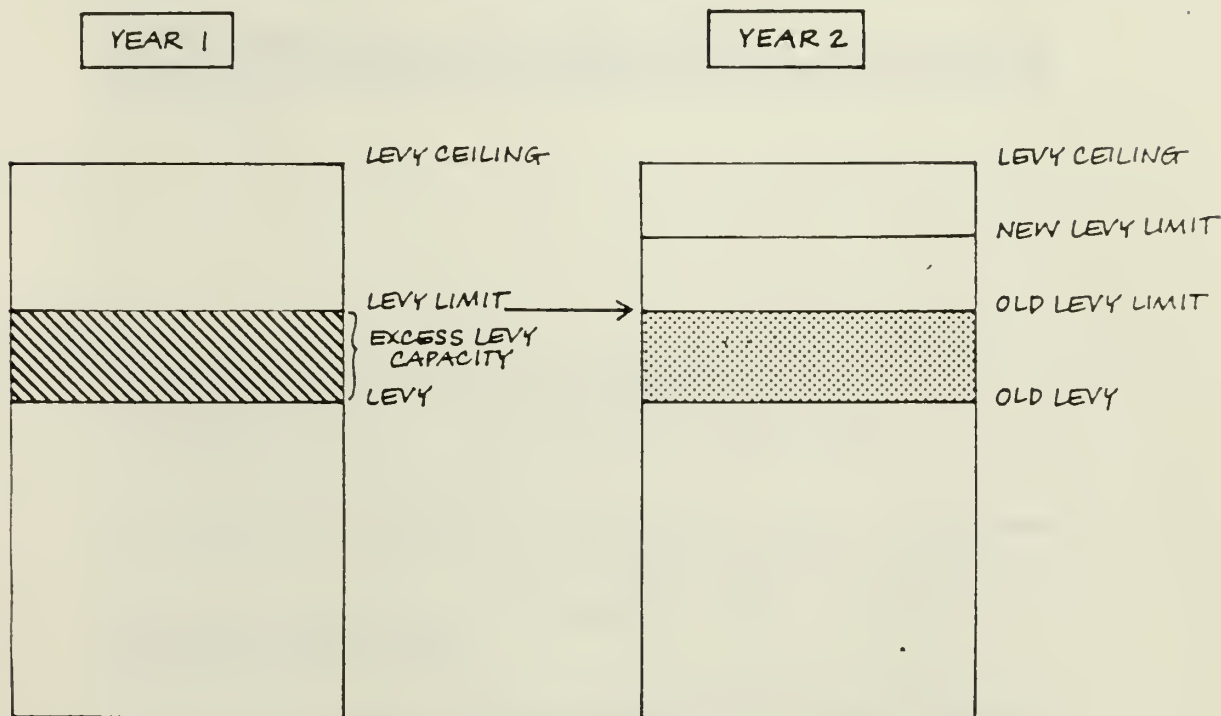
INCREASE IN LEVY LIMIT = \$ 25,000

INCREASE IN LEVY = \$125,000

In FY86, the town levies only \$900,000 of its levy limit of \$1,000,000, foregoing \$100,000 of tax revenue it could have collected. In FY87, the town's levy limit

increases by the automatic 2.5% allowed by Proposition 2 1/2, or up by \$25,000 to \$1,025,000. The town decides to levy all the way up to its new levy limit, so it has no excess capacity in FY87. Its FY87 levy is \$125,000 higher than its FY86 levy. The town cannot also levy an additional amount to capture the \$100,000 foregone in FY86. In other words, it cannot levy up to \$1,125,000 for a total levy increase of \$225,000. The \$100,000 foregone in FY86 is lost forever. But this is a one-time loss, since the community can, in FY87, levy all the way up to its new levy limit. This is highlighted in figure 6.

figure 6



In Year 1, the community levies below its levy limit and as a result has excess levy capacity, as represented by the shaded area.

In Year 2, the community may levy all the way up to its new levy limit. By levying up over its "old" levy limit (that is, its levy limit in Year 1), the community "uses" the excess capacity accrued in Year 1, indicated by the light shaded area. The community may raise its levy up to the new levy limit regardless of the percentage rise in the levy that is required to do so.

However, in Year 2 the community may not go back and recover the actual dollars of excess levy capacity foregone in Year 1 (the dark shaded area in the Year 1 diagram). That tax revenue is lost forever. It is only a one-time loss, though, since the community can still tax up to or past that level in Year 2.

APPENDIX

I. RESOURCES

Informational Guideline Release (IGR) No. 87-226:

Capital Outlay Expenditure Exclusions from Proposition 2 1/2 (Chapter 562 of the Acts of 1986)

Informational Guideline Release (IGR) No. 87-236:

Proposition 2 1/2 - Referenda Questions (Chapter 229 of the Acts of 1987)

Informational Guideline Release (IGR) No. 87-404:

Fiscal Year 1988 Guidelines for Adjustments to Tax Levy for Property Tax Base Growth

II. CONTACTS

For information on Levy Limits and Levy Ceilings:

Tony Rassias, Bureau of Accounts, Division of Local Services
(617) 727-4401

For information on New Growth:

Arthur Ecclestone, Bureau of Local Assessment, Division of Local Services
(617) 727-4217

Karen Avalue, Bureau of Local Assessment, Division of Local Services,
Springfield Regional Office
(413) 732-1670

For information on Ballot Questions (Overrides, Debt Exclusions, and Capital Outlay Expenditure Exclusions):

Kathleen Colleary, Property Tax Bureau, Division of Local Services
(617) 727-4231

**TO ORDER ANY OF THE RESOURCES LISTED ABOVE
COMPLETE AND MAIL THE FORM ATTACHED.**

To: Community Services Coordinator
Massachusetts Department of Revenue
Division of Local Services
200 Portland Street
P.O. Box 7015
Boston MA 02204

From: _____

Please send me the following:

- _____ copies of:
IGR No. 87-226:
Capital Outlay Expenditure Exclusions from Proposition 2 1/2 (Chapter 562 of the Acts of 1986)
- _____ copies of:
IGR No. 87-236:
Proposition 2 1/2 - Referenda Questions (Chapter 229 of the Acts of 1987)
- _____ copies of:
IGR No. 87-404
Fiscal Year 1988 Guidelines for Adjustments to Tax Levy for Property Tax Base Growth

